

REMARKS

Claims 1-15, 17-20, and 38-55 are pending in the present application. Claims 1-5 were previously withdrawn from consideration and claims 16 and 21-37 were previously cancelled. In this response, no claims have been cancelled, amended, or added. Accordingly, claims 1-15, 17-20, and 38-55 remain under consideration. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented.

Applicants thank the Office for withdrawing the rejection of claims 6-15, 17-20, 38, 39, and 50 under 35 U.S.C. §112, first paragraph.

Claim Rejections-35 U.S.C. §102(e)

Claims 6-15, 17-20, and 38-55 stand rejected under 35 U.S.C. §102(e) as being allegedly anticipated by U.S. 6,620,177 to Buelna et al (“Buelna”). In the final Office Action, the Office states that Buelna teaches a protective shield (50, 250) as shown in Fig. 10B, and that at least a portion of 250 is over at least a portion of the expandable region.

Applicants respectfully point out that the Office has misinterpreted Fig. 10B. To clarify, Fig. 10B is a cross-sectional view of Fig. 10 taken along line 10B-10B. In the device variation shown in Fig. 10, the sealing membrane 260 is not contiguous around the shaft assembly 240. Instead, a lengthwise gap 262 (depicted in Fig. 10A) is provided in the sealing membrane and aligned with the slot 255 of the flexible tube 250. The remaining portion of the sealing membrane is adhered to the flexible tube such that it stretches across the underside of the expanded region upon deployment, as illustrated in Fig. 10 and correspondingly described at column 9, lines 24-36 of the specification. With this configuration, a small space is created between the clamped vessel wall and the stretched sealing membrane that helps to decrease the risk of puncturing the sealing membrane during the anastomosis procedure (column 9, lines 37-43). In view of this disclosure, it is clear that the space between the sealing membrane and the clamped vessel wall is used to prevent puncture of the sealing membrane, not a protective shield. It is also clear that element 250 is the flexible tube, and not a protective shield.

If Fig. 10 does not include a protective shield, then the cross-sectional view in Fig. 10B of the same shaft assembly cannot include a protective shield. In Fig. 10B, the cut walls of the flexible tube 250 that are expanded (see Fig. 10) are shown in cross-section along line 10B-10B. Attached hereto are marked-up figures 10 and 10B that identify the cut walls in both. From that comparison it is clearly shown that flexible tube 250 is not a protective shield of any sort.

Withdrawal of the rejection under 35 U.S.C. §102(e) is respectfully requested. Applicants also respectfully request that the Office contact the undersigned with any remaining questions regarding Fig. 10B.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 506512002100. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

By 

Lisa A. Anfi

Registration No.: 48,199

MORRISON & FOERSTER LLP

755 Page Mill Road

Palo Alto, California 94304-1018

(650) 813-5674

Attachment: Copy of Fig. 10 and Figs. 10A-10C
from U.S. 6,620,177 (one page)

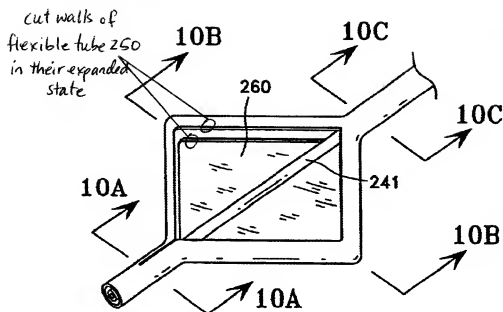


Fig. 10

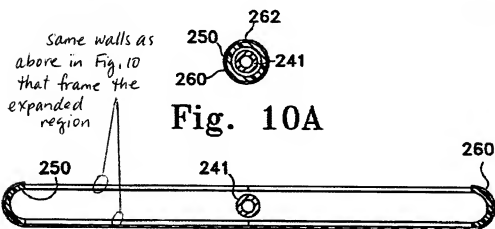


Fig. 10A

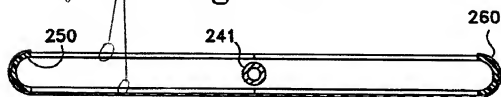


Fig. 10B



Fig. 10C